

ARKANSAS SUPREME COURT

No. CACR 06-987

JUSTIN McKEOWN
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered May 31, 2007

PRO SE MOTION FOR ACCESS TO
TRANSCRIPT [CIRCUIT COURT OF
CRAIGHEAD COUNTY, WESTERN
DISTRICT, CR 2004-928]

MOTION TREATED AS MOTION FOR
TRANSCRIPT AT PUBLIC EXPENSE
AND DENIED.

PER CURIAM

In 2005, petitioner Justin McKeown was found guilty of residential burglary, aggravated robbery, and possession of a controlled substance. An aggregate sentence of 120 months' imprisonment was imposed. The Arkansas Court of Appeals affirmed. *McKeown v. State*, CACR 06-987 (Ark. App. Apr. 11, 2007).

Petitioner, who contends that he is indigent, now seeks access to the trial transcript lodged on appeal for thirty days so that he may prepare a petition for postconviction relief pursuant to Criminal Procedure Rule 37.1.¹ As providing petitioner with access to the transcript would require photocopying it at public expense inasmuch as he is incarcerated and not in a position to examine the transcript in our clerk's office, we treat the motion as a motion for photocopies at public expense.

¹For clerical purposes, the motion has been filed under the docket number assigned to the direct appeal of the judgment that was lodged in the Arkansas Court of Appeals. This court decides all motions for photocopying at public expense because such motions are considered to be requests for postconviction relief. *See Williams v. State*, 273 Ark. 315, 619 S.W.2d 628 (1981) (per curiam).

Indigency alone does not entitle a petitioner to free photocopying. *Washington v. State*, 270 Ark. 840, 606 S.W.2d 365 (1980) (per curiam). A petitioner is not entitled to a photocopy of material on file with either appellate court unless he or she demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief. *See Austin v. State*, 287 Ark. 256, 697 S.W.2d 914 (1985) (per curiam). Petitioner here alleges that the transcript is needed to prepare his postconviction petition, but he has cited no specific reason for requiring a copy of the transcript to raise any particular ground for relief. As petitioner has failed to establish a compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief, the motion is denied.

It should be noted that when an appeal has been lodged in either this court or the court of appeals, the appeal transcript remains permanently on file with the clerk. Persons may review a transcript in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of a transcript may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996) (per curiam).

Motion denied.